

AMENDED IN ASSEMBLY MAY 11, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 925

Introduced by Assembly Member Low

February 26, 2015

An act to amend Section 632.7 ~~of~~ *of, and to add Section 632.8 to,* the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 925, as amended, Low. Intentional recording of telephonic communication.

Existing law makes it a misdemeanor, punishable by a fine not to exceed \$2,500, by imprisonment in county jail for not more than one year or in the state prison, or by both that fine and imprisonment, to intercept or receive and intentionally record, or assist in the interception or receipt and intentional recording of, a communication transmitted between 2 telephonic devices, without the consent of all parties to the communication. Existing law exempts from these provisions a public communications utility when the acts are for the construction, maintenance, or operation of the services of the public utility or are pursuant to the tariffs of the public utility, and also exempts telephonic communication systems used exclusively within a correctional facility, as specified.

This bill would additionally exempt from that prohibition—a ~~nonconfidential~~ *the first 20 seconds of a telephonic* communication between a person or business and a current or former customer, or a

person reasonably believed to be a current or former customer, regarding their business relationship, including communications regarding billing, provisioning, maintaining, or operating the product or service provided by the person or business. customer. The bill would also require the Department of Justice to annually report to the Legislature the number of people charged under these provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 632.7 of the Penal Code is amended to
2 read:

3 632.7. (a) Every person who, without the consent of all parties
4 to a communication, intercepts or receives and intentionally
5 records, or assists in the interception or reception and intentional
6 recordation of, a communication transmitted between two cellular
7 radio telephones, a cellular radio telephone and a landline
8 telephone, two cordless telephones, a cordless telephone and a
9 landline telephone, or a cordless telephone and a cellular radio
10 telephone, shall be punished by a fine not exceeding two thousand
11 five hundred dollars (\$2,500), or by imprisonment in a county jail
12 not exceeding one year, or in the state prison, or by both that fine
13 and imprisonment. If the person has been convicted previously of
14 a violation of this section or of Section 631, 632, 632.5, 632.6, or
15 636, the person shall be punished by a fine not exceeding ten
16 thousand dollars (\$10,000), by imprisonment in a county jail not
17 exceeding one year, or in the state prison, or by both that fine and
18 imprisonment.

19 (b) This section shall not apply to any of the following:

20 (1) A public utility engaged in the business of providing
21 communications services and facilities, or to the officers,
22 employees, or agents thereof, when the acts otherwise prohibited
23 are for the purpose of construction, maintenance, conduct, or
24 operation of the services and facilities of the public utility.

25 (2) The use of any instrument, equipment, facility, or service
26 furnished and used pursuant to the tariffs of the public utility.

27 (3) A telephonic communication system used for communication
28 exclusively within a state, county, city and county, or city
29 correctional facility.

1 ~~(4) A nonconfidential communication between a person or~~
2 ~~business and a current or former customer of the person or business,~~
3 ~~or a person reasonably believed to be a current or former customer,~~
4 ~~regarding their business relationship, including, but not limited to,~~
5 ~~communications regarding billing, provisioning, maintaining, or~~
6 ~~operating the product or service provided by the person or business.~~

7 *(4) The initial 20 seconds of a telephonic communication*
8 *between a business and a current or former customer, or a person*
9 *reasonably believed to be a current or former customer.*

10 (c) As used in this section, each of the following terms have the
11 following meaning:

12 (1) “Cellular radio telephone” means a wireless telephone
13 authorized by the Federal Communications Commission to operate
14 in the frequency bandwidth reserved for cellular radio telephones.

15 (2) “Cordless telephone” means a two-way, low power
16 communication system consisting of two parts, a “base” unit which
17 connects to the public switched telephone network and a handset
18 or “remote” unit, that are connected by a radio link and authorized
19 by the Federal Communications Commission to operate in the
20 frequency bandwidths reserved for cordless telephones.

21 (3) “Communication” includes, but is not limited to,
22 communications transmitted by voice, data, or image, including
23 facsimile.

24 *SEC. 2. Section 632.8 is added to the Penal Code, to read:*

25 *632.8. (a) On January 1, 2017, and annually thereafter, the*
26 *Department of Justice shall report to the Legislature the number*
27 *of people charged with a crime under Section 632.7 during the*
28 *preceding year.*

29 *(b) The report to the Legislature pursuant to this section shall*
30 *be submitted in compliance with Section 9795 of the Government*
31 *Code.*